

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION  
2:09cv3**

**SUNTRUST MORTGAGE, INC.,** )  
**a Virginia corporation,** )

**Plaintiff,** )

**Vs.** )

**ORDER**

**DONALD D. BUSBY; LORI A.** )  
**NASSIDA; KELLY M. BAKER;** )  
**MICHAEL T. BAKER; ROBERT** )  
**JOHN CUPELLI; LEIGH K.** )  
**CUPELLI; DEANNA DAVIS; DEAN** )  
**R. CUMMINGS; JEFFREY A.** )  
**SYKES; GUY BARHOMA; ROBERT** )  
**G. RONK; GREGORY M. SCHUETZ;** )  
**KENNARD M. DAVIS; and PAUL J.** )  
**MULA,** )

**Defendants.** )

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**THIS MATTER** is before the court on the Wimer defendants' Motion for Reconsideration of [the] Court's Order Compelling Discovery (#87). The basis for this request is plaintiff's counsel's misunderstanding of the meaning of email correspondence received from counsel for the Wimer defendants. While the court cited to such in its earlier Order, such was not a material basis for decision as the case law overwhelmingly controlled the court's decision: "[t]o be even more succinct,

defendants simply cannot argue that closing documents in their possession, custody, or control are subject to any attorney-client privilege . . . .” Order (Docket Entry #86), at 4. While the court greatly appreciates these defendants’ efforts at correcting the record, such misunderstanding and defendants’ clarification would not change the court’s decision as such appears to be wholly consistent with current case law.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that Wimer defendants’ Motion for Reconsideration of [the] Court’s Order Compelling Discovery (#87) is **GRANTED**, and having reconsidered the court’s decision in light of the clarification, the court **REAFFIRMS** its previous decision in Docket Entry #86.

Signed: April 5, 2010

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Dennis L. Howell  
United States Magistrate Judge

